THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION Nos.24798, 22096, 22097

and 24805 of 2005

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DATED: 09.12.2005

WRIT PETITION No.24798 of 2005:

Between:

G.Madhukar Reddy S/o.Vittal Reddy
M/s.Sukjit Starch Mills, Nizamabad

..... PETITIONER

AND

M/s.Sukjit Starch Mills, Nizamabad,
rep.by its General Manager and another.

.....RESPONDENTS

WRIT PETITION No.22096 of 2005:

Between:

M/s. Sukhjit Starch Mills Rep.by its General Manager
Mr. Rajiv Dua R/o. Mubarak Nagar Nizamabad-503 003

.... PETITIONER

AND

V.Ashok S/o. Mr. Narasimhulu
R/o. 10-2-55, Behind Canara Bank Shivajinagar
Nizamabad Rep.by its General Manager and another.

.....RESPONDENTS

WRIT PETITION No.22097 of 2005:

Between:

M/s.Sukhjit Starch mills, Mubarak Nagar,
Nizamabad-503 003, represented by its General Manager,
Mr.Rajuv Dua.

..... PETITIONER

AND

G.Madhukar Reddy, s/o O.Vithal Reddy,
R/o MIG-II, Q.No.6, Behind Laxmikalyanamandapam,
Kanteshwar, Nizamabad District and another.

....RESPONDENTS

WRIT PETITION No.24805 of 2005:

Between:

V.Ashok, S/o.Narasimhulu
M/s Sukjit Starch Mills, Nizamabad.

..... PETITIONER

AND

M/s Sukjit Starch Mills, Nizamabad,
rep by its General Manager and another.

.....RESPONDENTS

COMMON ORDER:

These four writ petitions are interconnected and arise under similar set of facts. W.P.Nos. 22096 and 22097 of 2005 are filed by the Management aggrieved by the orders of the Labour Court-II, Hyderabad in I.D.Nos. 74 and 75 of 2003, dated 16.03.2005.

During the course of hearing the Industrial Disputes on a preliminary issue as to the validity of the domestic enquiry, the Labour Court recorded a finding to the effect that the domestic enquiry did not suffer from any infirmity. However, it permitted the workmen to cross-examine the witnesses produced by the Management before the enquiry officer. The two concerned workmen, in turn, have filed W.P.Nos. 24798 and 24805 of 2005.

Learned counsel for the Management, Sri G.Vidya Sagar, submits that once the Labour Court recorded a finding that the domestic enquiry did not suffer from any infirmity, it was not open to it to permit the workmen to cross-examine the witnesses, who were examined before the enquiry officer. He placed reliance upon the judgment of this court in ***Bank of Baroda Vs. G.Sriram***.

Sri K.Vasudeva Reddy, learned counsel for the workmen, on the other hand, submits that the petitioners have pointed out the clear violations and defects in the domestic enquiry. He contends that the enquiry officer did not permit the workmen to cross-examine the witnesses examined by the Management. Drawing the attention of this Court to the endorsement made by the enquiry officer on 10.02.2003, he contends that the allegation that the workmen refused to participate in the enquiry cannot be accepted at all.

Both the workmen are employed in the same industrial undertaking. Through orders dated 21.03.2003, they were dismissed on the allegation that they have committed acts of misconduct while working as godown keepers. Aggrieved thereby, the workmen raised industrial disputes, which were taken up as I.D.Nos. 74 and 75 of 2003.

The Labour Court has taken up the preliminary question as to whether the domestic enquiry was properly conducted. While the workmen contended that the enquiry officer did not give them an opportunity to cross-examine the witnesses produced by the Management, the Management, in turn, took the stand that the petitioners have virtually walked out of the enquiry proceedings. It was alleged that the petitioners refused to participate in the enquiry on the ground that they have filed suits before the Civil Court.

The Labour Court has perused the entire record and took the view that on 10.02.2003 the workmen attended the enquiry proceedings, but refused to proceed further on the ground that they filed civil suits. The request for adjournment made by them was turned down by the enquiry officer at 12.00 noon, and the matter was adjourned to 3'o clock. Separate endorsement was made at 3'o clock and it is to the effect that the workmen appeared before him and stated that they will receive the copy of the proceedings after signing it, but refused to participate in the further enquiry. Nothing is stated by the workmen to say that the endorsement is wrong. The contention of the learned counsel for the petitioner that there is a contradiction in the

two sentences of the endorsement does not appear to be correct. While the first sentence discloses the fact that the petitioners appeared and insisted for furnishing the copy of the order passed by the enquiry officer rejecting their request for adjournment, the second sentence discloses the unwillingness on the part of the workmen to participate in the enquiry proceedings. Therefore, the enquiry officer was left with no other alternative except to proceed with the enquiry. In that view of the matter, the finding of the Labour Court that the enquiry proceedings did not suffer from any illegality or infirmity cannot be found fault with.

The next question is as to whether the Labour Court was justified in permitting the workmen to examine the witnesses, who were examined during the course of domestic enquiry. Such a course was held to be totally impermissible, by a Division Bench of this Court in its judgment in ***Bank of Baroda's*** *case* (1 supra). It was pointed out that such a course would result in contradiction in terms and would vitiate the entire proceedings.

In that view of the matter, W.P.Nos. 22096 and 22097 of 2005 are allowed to the extent of setting aside the order passed by the Labour Court, permitting the workmen to cross-examine the witnesses, who were examined during the course of domestic enquiry, and W.P.Nos. 24798 and 24805 are dismissed. It is, however, made clear that it shall be open to the workmen to raise these aspects at the time of final hearing of the Industrial Disputes or at subsequent stages, depending upon the outcome of the proceedings before the Labour Court. The observations made herein shall not be treated as final on the said question. There shall be no order as to costs.

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09.12.2005

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